

USDC SCAN INDEX SHEET



TELEDYNE INDUSTRIES

BOEING COMPANY

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3:97-CV-02185

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13 Teledyne Industries, Inc.

14 UNITED STATES DISTRICT COURT
15 SOUTHERN DISTRICT OF CALIFORNIA

16 TELEDYNE INDUSTRIES, INC., a)

17 California corporation,)

18 Plaintiff,)

19 v.)

20 THE BOEING COMPANY, a Delaware)
21 corporation; and McDONNELL DOUGLAS)

22 HELICOPTER COMPANY, a Delaware)
23 corporation,)

24 Defendants.)

Civil Action No. '97 CV 2185 H (LSP)

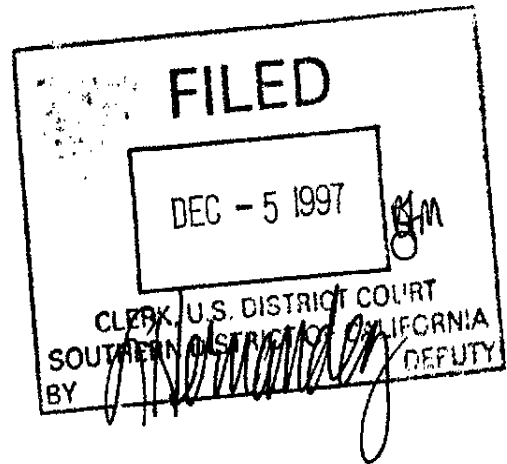
COMPLAINT FOR BREACH OF CONTRACT,
BREACH OF IMPLIED COVENANT OF GOOD
FAITH AND FAIR DEALING, AND TORTIOUS
INTERFERENCE WITH CONTRACTUAL
RELATIONS

JURY TRIAL DEMANDED

25 Plaintiff Teledyne Industries, Inc., ("Teledyne") brings this action for injunctive relief and
26 damages against The Boeing Company ("Boeing") and McDonnell Douglas Helicopter Company
27 ("MDHC") (collectively "defendants") and alleges as follows:

28 INTRODUCTION

1. This dispute arises out of MDHC's breach of its contractual relationship to Teledyne in order
to obtain for itself or for its affiliate, Boeing, profits on sales of attack helicopter parts to which Teledyne is
contractually entitled. Specifically, MDHC has breached a Teaming Agreement and related subsequent



1 agreements (all of which are referred to collectively as the "Teaming Agreement") for the sale and purchase
 2 of airframes for Apache attack helicopters. The Teaming Agreement has governed the commercial
 3 relationship between MDHC and its predecessors, on the one hand, and Teledyne, on the other hand, for
 4 nearly 25 years. Defendants' conduct has injured and will cause Teledyne to suffer injury, including the
 5 loss of jobs, loss of good will, and loss of revenues of such magnitude that they will threaten the existence
 6 of a whole operating division of Teledyne, and other injuries that are not fully or adequately compensable
 7 by an award of monetary damages.

8 JURISDICTION AND VENUE

9 2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 in that there is
 10 diversity of citizenship among the parties and the matter in controversy exceeds \$75,000, exclusive of
 11 interest and costs.

12 3. Venue is properly laid in this district pursuant to 28 U.S.C. § 1391(b) and (c).

13 THE PARTIES

14 4. Teledyne is a California corporation whose principal place of business is in Los Angeles,
 15 California. Teledyne Ryan Aeronautical ("TRA") is an unincorporated operating division of Teledyne
 16 whose principal place of business is in San Diego, California.

17 5. Boeing is a Delaware corporation with its principal place of business in Seattle, Washington.

18 6. MDHC is a Delaware corporation with its principal place of business in Mesa, Arizona.
 19 MDHC is a wholly owned subsidiary of defendant Boeing. MDHC is the same corporation as, or the
 20 successor in interest to, Hughes Helicopters, Inc., whose name has been changed to MDHC. Hughes
 21 Helicopters, Inc. is the successor in interest to Hughes Helicopters and Ordinance Division of Summa
 22 Corporation.

23 FACTUAL BACKGROUND

24 7. In the early 1970's, the United States Army announced its intention to procure a new type of
 25 advanced attack helicopter. During this period, representatives of TRA discussed with representatives of
 26 Hughes Helicopters and Ordinance Division of Summa Corporation ("Hughes"), the predecessor-in-interest
 27 of MDHC for purposes of this lawsuit, the possibility of entering into a teaming arrangement whereby
 28

1 TRA would become a subcontractor to Hughes in the design, development, manufacture, and sale of
2 advanced attack helicopters of the United States government.

3 8. These discussions culminated in a Teaming Agreement that was reduced to writing by letter
4 from Barry Shillito, President of TRA, to T.R. Stulpnagel, Vice President and General Manager of
5 Hughes, dated March 13, 1973, and signed by Stulpnagel on April 3, 1973. Pursuant to this agreement,
6 TRA agreed to provide Hughes with design analysis, marketing, support, and engineering support to assist
7 it in obtaining both the prime contract for the design, development, and manufacture of advanced attack
8 helicopter prototypes, as well as subsequent attack helicopter production contracts, for what was later
9 denominated as the AH-64 or Apache helicopter. Hughes in turn agreed to purchase from TRA certain
10 major structures of the Apache, including the total fuselage structure, the wing structure, the nacelles, and
11 the empennage (collectively, the "airframe"), under any prototype or production contracts received by
12 Hughes for the Apache helicopter.

13 9. The Teaming Agreement anticipated that Hughes would enter into a series of prime contracts
14 with the United States government, first for development and later for production of the advanced attack
15 helicopters. The Teaming Agreement required Hughes, in turn, to purchase its requirements for the
16 airframe components from TRA. The Teaming Agreement provides that TRA is contractually entitled to
17 subcontracts for production of all components of the airframes for any Apache helicopters produced by
18 Hughes. Paragraph 2 of the agreement states:

19 In the event that you [Hughes] are awarded a production contract or contracts from the
20 United States Government as a result of winning this competition, we [i.e., Hughes and
21 TRA] will negotiate a mutually acceptable subcontract for the items as listed in
Paragraph 1, above, for the vehicles to be produced thereunder.

22 The parties' intent was to ensure that they were bound by the Teaming Agreement through the entire
23 production of Apache helicopters. This intent to award all subcontracts for production of Apache
24 airframes to TRA has been reiterated and confirmed by Hughes and its successors, as set forth in detail
25 below.

26 10. In 1973 Hughes was successful in obtaining a prime contract for development of the advanced
27 attack helicopter, denominated the AH-64. Hughes and TRA entered into a subcontract whereby Hughes
28

1 would purchase from TRA advanced attack helicopter airframes. All work by TRA under this subcontract
2 was to be performed in San Diego, California. This subcontract was completed in September of 1976.

3 11. Hughes subsequently obtained a prime contract from the United States Government for
4 additional development units. Hughes issued another subcontract whereby Hughes would purchase from
5 TRA additional advanced attack helicopter airframes. All work by TRA under this subcontract was to be
6 performed in San Diego, California. This subcontract was completed in May of 1982.

7 12. Under pressure from Hughes to minimize costs in order to keep the AH-64 program viable,
8 and in light of the Teaming Agreement, TRA performed substantial tasks under the subcontracts referred to
9 in paragraphs 10 and 11 above without profit.

10 13. Over the next several years, TRA expended considerable additional effort and made
11 significant additional investments (including TRA-financed capital acquisitions), which were not
12 reimbursed by Hughes, in TRA's effort to support early developmental phases of the Apache program.
13 TRA estimates that its unreimbursed expenses were approximately \$50 million by 1980. These losses, and
14 subsequent losses sustained by TRA during the Apache program, were incurred in support of the program
15 and in reasonable anticipation that subsequent production contracts would allow TRA to realize sufficient
16 profit such that TRA's participation throughout the life of the program would result in a reasonable profit.
17 This fact was known to Hughes and its successors.

18 14. In 1980, the Army informed Hughes that it would be awarded the first Apache production
19 contract. Contrary to its obligations under the Teaming Agreement, in August 1980, Hughes informed
20 TRA that it intended to seek competitive bids for the Apache airframes for Production Lot 1 and
21 subsequent production quantities. By letter dated August 19, 1980, TRA reminded Hughes of its
22 obligations under the Teaming Agreement and emphasized the significant financial sacrifices that it had
23 made to support the Apache program. TRA also stressed that it had supported the Apache program from
24 marketing and political perspectives in reliance on Hughes' commitment to purchase all future requirements
25 for airframes from TRA. In particular, TRA had made significant investments to support Hughes'
26 developmental efforts for the Apache. Following further discussions regarding TRA's entitlement to all
27 Apache airframe subcontracts, Hughes subsequently honored its obligations under the Teaming Agreement
28

1 and executed a subcontract with TRA for Production Lots 1 and 2, which consisted of eleven and forty-
2 eight Apache airframes, respectively, plus associated production tooling.

3 15. On January 14, 1983, TRA and Hughes reaffirmed the intent of Teaming Agreement by
4 executing a Memorandum of Agreement ("MOA") which stated in part:

5 [Hughes] agrees that: TRA is the subcontractor for at least 515 s/s [sic: shipsets] of
6 airframe structures

7 TRA is committed to negotiate competitive prices with [Hughes] for Lot 3 production and
subsequent production lots which are acceptable to [Hughes'] customer.

8 The 515 shipsets referred to in this MOA encompassed all of Hughes' projected Apache sales based on the
9 parties' expectations at the time. Consistent with the teaming arrangement, TRA and Hughes negotiated
10 prices, terms, and conditions for Lot 3.

11 16. The parties reached an agreement on the prices, terms, and conditions for Lot 4 on
12 November 21, 1984 at San Diego, California. The agreement is contained in a handwritten document
13 signed by A.C. Haggerty for Hughes and Hudson B. Drake for TRA. In that agreement, the parties again
14 reaffirmed the commitment of Hughes contained in the Teaming Agreement that TRA would be the
15 airframe manufacturer for all Apache helicopters produced by Hughes, by stating in part that Hughes
16 agrees that "TRA will be the subcontractor for the presently planned 675 USG Apache buy [subject to the
17 Israeli offset provisions] in the following paragraph III."

18 17. In or about early 1985, McDonnell Douglas Corporation acquired Hughes and its corporate
19 affiliates. MDHC is the successor-in-interest to Hughes. In March 1985, TRA received from MDHC a
20 request for a proposal for Production Lot 5. By letter dated October 30, 1985, MDHC advised TRA that
21 the Army was unable to authorize funding for Lot 5 production as originally scheduled. As Hughes had
22 done in the past, MDHC emphasized the "team concept" and asked TRA to share in the risk that the then-
23 planned Apache procurement would not be authorized by Congress:

24 As a valued team member and to preserve schedule and program continuity we ask that
25 you assume the responsibility for initiating the first 30 days of effort relating to the P-5
26 production buy for the items as specified, and for the quantities and delivery schedules set
forth herein. [MDHC] will recognize such costs back to 1 November 1985, if and when
such funding is received from the Army.

27
28 (Emphasis added.)

1 18. Responding to MDHC's request in a manner in keeping with its earlier efforts to support the
2 team arrangement, TRA commenced performance without funding, facing the risk that such costs would
3 not be reimbursed in the event that future funding was not received from the Army. MDHC subsequently
4 received funding from the Army.

5 19. The terms of the hand-written agreement of November 21, 1984 were included in the formal
6 subcontract prepared by MDHC and submitted to TRA in mid-July 1985. As set forth in the formal
7 subcontract HH-40014A, MDHC and TRA agreed:

8 In the event MDHC is awarded prime contracts up to and including 675 shipsets of the
9 AH-64, Teledyne will be the subcontractor for 675 shipsets of Airframe structures
including fuselage, wings, nacelles, empennage and fairing kits.

10 20. The 675 shipsets were defined as including 315 shipsets already ordered for Lots I through
11 IV, 144 to be ordered for Lot V, 144 to be ordered for Lot VI, and 72 to be ordered to Lot VII.

12 21. TRA signed and returned its copy of subcontract HH-40014A on August 1, 1985, and on July
13 18, 1986 received a signed formal copy back from MDHC.

14 22. During the summer of 1986, the Apache program was the subject of extensive debate before
15 the congressional Armed Services committees. During these debates the Army repeatedly stated that its
16 total requirement for Apache helicopters was 1206 aircraft. However, due to funding constraints, the Army
17 was faced with termination of the Apache production at 675 aircraft, thus satisfying only 55% of its
18 requirement. Termination of the Apache program in FY88 at 675 aircraft appeared likely at that time,
19 notwithstanding the general agreement of all concerned that the Army needed additional Apaches beyond
20 that number. Also during this period, Congress expressed concerns that, unlike the Air Force and Navy,
21 the Army had not developed a policy of maintaining two production lines for major weapon systems.
22 Because of these concerns, Congress directed the Army to develop a plan addressing the feasibility of
23 establishing a second source for the Apache helicopter. In July 1986, in response to this directive, the
24 Army Apache program manager instructed MDHC to investigate second sourcing of the fuselage.

25 23. The negotiations between MDHC and TRA for Production Lots 5 through 7 were conducted
26 against this backdrop in the summer of 1986. As a result, in September 1986, when MDHC and TRA
27 executed an agreement on the pricing of the Apache airframes for Lots 5 and 7, the agreement required
28 MDHC to award TRA all the fuselage subcontracts through the currently funded and then-projected life of

1 the program -- that is, for 675 aircraft. In recognition that the Army might require MDHC to obtain a
 2 second source for the fuselage, the agreement permitted MDHC to procure fuselages for aircraft
 3 subsequent to shipset 675 from a second source. The Army, however, subsequently concluded that second
 4 sourcing the fuselage was not a viable alternative. Thereafter, MDHC and TRA would serve as the sole
 5 source for Apache fuselages.

6 24. On June 23, 1988, MDHC and TRA executed an Memorandum of Agreement ("MOA") in
 7 which they agreed to pricing for production of the airframes for Lots 7+ and 8. The MOA states in part:

8 The above price settlement assumes continuous production at a rate of at least 6
 9 [airframes] per month in lot 7/8 and continued follow on production of lot 9. If either of
 10 the above change for any reason MDHC/TRA agree to negotiate mutually acceptable price
 impact in accordance with Federal Acquisition Regulation.

11 25. Prior to the production on Lots 7+ and 8, TRA had not made any profits, and indeed had
 12 suffered severe financial losses on its investments in and work on the Apache program. TRA was willing
 13 to incur these losses, which ran into the tens of millions of dollars, in order to maintain its business base as
 14 the manufacturer of Apache airframes and based on Hughes' and MDHC's pre-existing commitments that
 15 TRA would maintain the airframe work share throughout the life of the Apache system.

16 26. MDHC and TRA again committed to writing their shared intent regarding future production
 17 of the Apache airframe in an August 24, 1988 agreement. This agreement reaffirmed the commitments and
 18 obligations contained in the Teaming Agreement and subsequent agreements, and provided in part:

19 The parties agree that it is their intent to continue the Apache Team concept with TRA as
 20 the selected source for the current Apache Air-Frame for whatever quantities the U.S.
 Government orders from MDHC through Lot 12, unless the U.S. Government directs
 otherwise.

21 At the time, Lot 12 was the last projected Production Lot.

22 27. On December 16, 1988, in an Addendum to the MOA dated June 23, 1988, MDHC again
 23 reiterated its intent to honor the teaming arrangement. This Addendum contained the August 24, 1988
 24 agreement expressing the parties' mutual intent to continue the team concept through Lot 12, which was
 25 still the last projected production lot.

26 28. The parties reaffirmed TRA's right to a specific Apache workshare (including the Longbow
 27 configuration) on September 17, 1990, when TRA and MDHC executed a handwritten agreement in which
 28 they agreed to pricing for Production Lots 8 and 9. Paragraph 6 of the MOA specifically provided:

1 TRA [is] to be the supplier or recipient of reasonable licensing revenue for current TRA
2 workshare for Apache including the Longbow configuration; TRA agrees to propose fair
3 and reasonable prices.

4 29. On February 3, 1993, MDHC informed TRA that it was considering bringing in-house some
5 of the Apache components that are part of TRA's workshare. MDHC subsequently requested a rough
6 order of magnitude ("ROM") proposal addressing the costs associated with terminating TRA's efforts in
7 the composite/fairing area. On March 5, 1993, TRA responded by pointing out to MDHC that the subject
8 components were part of TRA's contractually-mandated workshare and any action by MDHC to bring the
9 work in-house would constitute a breach of contract. In response, on April 8, 1993, MDHC directed TRA
10 to stop work on all of the identified work and requested a firm fixed-price proposal addressing the
11 termination costs. As a result of these and related communications and as a commercial accommodation to
12 MDHC, TRA permitted MDHC to take in-house certain so-called "secondary" structural airframe work
13 (i.e., work involving composite materials) related to the Apache program.

14 30. In anticipation of continuing the team arrangement, the parties thereafter began concurrent
15 negotiation of two separate agreements: (1) an agreement known as the AH-64 Apache Production
16 Subcontract Overriding Agreement (the "Overriding Agreement"), which was intended to set forth the
17 terms and conditions that were to be incorporated into all current and subsequent Apache purchase orders
18 between MDHC and TRA; and (2) a Subcontracting Agreement, which was intended effectively to replace
19 the Teaming Agreement, and which was intended to form the basis for the parties' future commercial
20 relationship.

21 31. The Overriding Agreement was executed on November 15, 1994 by MDHC and TRA.
22 MDHC and TRA could not, however, agree to certain terms of the Subcontracting Agreement. In
23 particular, MDHC insisted that the Subcontracting Agreement give it the right to purchase Apache
24 airframes from a source other than TRA without a payment of royalties to TRA. Because this would have
25 provided TRA fewer rights than it held under the Teaming Agreement, TRA refused to agree to such a
26 provision. The parties did not execute a Subcontracting Agreement and their commercial relationship
27 continued to be governed by the Teaming Agreement.
28

1 32. In or about late 1995, MDHC anticipated entering into contracts for the sale of Apache
2 helicopters to the governments of the Netherlands and the United Kingdom. In order to begin the
3 production process for those anticipated contracts, MDHC approached TRA and initiated discussions
4 about interim production funding for the airframes, pending the execution of definitized subcontracts
5 between MDHC and TRA for these airframes.

6 33. In or about January 1996, TRA began to produce and manufacture additional airframes for
7 the Apache program pursuant to Not To Exceed Purchase Order 598697 issued by MDHC, which
8 subsequently was revised on several occasions. This purchase order was to supply airframes for the
9 Longbow configuration of the Apache helicopters that were to be sold by MDHC to the government of the
10 Netherlands (the "Netherlands PO"). The Netherlands PO calls for TRA to manufacture 30 shipsets of
11 Apache airframes.

12 34. In or about June 1996, TRA began to produce and manufacture additional airframes for the
13 Apache program pursuant to Not To Exceed Purchase Order 609182 issued by MDHC, which
14 subsequently was revised on several occasions. This purchase order was to supply airframes for the
15 Longbow configuration of the Apache helicopters that were to be sold by MDHC to the government of the
16 United Kingdom (the "UK PO"). The UK PO calls for TRA to manufacture 67 shipsets of Apache
17 airframes.

18 35. The 97 shipsets of airframes that are to be produced pursuant to the UK and Netherlands POs
19 collectively are referred to as Lot 14 or Production Lot 14.

20 36. In or about August 1997, Boeing merged with and/or became the successor in interest to
21 MDHC's corporate parent, McDonnell Douglas Aerospace. Teledyne is informed and believes that
22 MDHC became at that time a wholly-owned subsidiary, either directly or indirectly, of Boeing. Teledyne is
23 further informed and believes that Boeing and MDHC discussed and contemplated that, after completion of
24 the merger, MDHC would breach the Teaming Agreement with TRA, in order that Boeing would be able to
25 pull all of the Apache airframe work out of TRA and move it to Boeing's helicopter production facility in
26 Philadelphia, Pennsylvania, known as the Vertol facility.

27 37. Shortly after the consummation of the merger, in September 1997, Mr. Dean Borgman, the
28 President of Boeing's Mesa, Arizona Apache production facility, advised TRA's President, Mr. Robert

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1 Mitchell, that Boeing intended to pull all of the Apache airframe work out of TRA and move it to Boeing's
2 Vertol helicopter production facility. Other Boeing representatives also communicated this intent to other
3 TRA employees around that time. In conjunction with these statements, Boeing requested that it be
4 permitted to visit TRA's Apache airframe production facility to review the airframe tooling in anticipation
5 of its relocation to the Vertol facility.

6 38. This threatened breach of the Teaming Agreement was again communicated to TRA in a
7 meeting held at Boeing's Mesa, Arizona facility on November 10, 1997. During that meeting Borgman
8 advised Mitchell that Boeing did not intend to enter into a firm, definitized subcontract for Lot 14, and
9 again advised Mitchell that Boeing instead intended to transfer future production of the Apache airframes
10 to the Boeing Vertol facility. In a subsequent telephone conference between Borgman and Mitchell on
11 November 17, 1997, Borgman reiterated Boeing's intent not to negotiate a contract for Lot 14.

12 39. On November 21, 1997, when Borgman again reiterated Boeing's intent to move future
13 Apache airframe production to the Vertol facility, Mitchell stated to Borgman that Boeing never intended
14 to enter into a definitized subcontract for Lot 14. Borgman did not contest this statement.

15 40. By letter dated November 21, 1997, Boeing issued a notice of partial termination for
16 convenience to TRA with respect to work being performed under the Netherlands and UK POs. Boeing's
17 purpose in issuing the partial termination letter was clear -- namely to begin the process of the withdrawal
18 of the Apache airframe work from TRA to the Boeing Vertol facility. Subparagraph b of the notice of
19 partial termination provides:

20 Prepare to transfer to The Boeing Company - Philadelphia all unperformed or partially
21 performed subcontracts and purchase orders related to the terminated portions of the
22 Reference (B) and (C) Letter Authorizations. Prepare to transfer all raw materials, parts
and tooling to The Boeing Company - Philadelphia in accordance with direction from The
Boeing Company - Mesa.

23 Subparagraph f provides:

24 Proceed as promptly as possible to obtain from your subcontractors and vendors
25 settlement proposals, with supporting schedules, with respect to any subcontracts and
26 purchase orders not transferred to Boeing Philadelphia, and settle the same or obtain
signed release where no claims are to be presented.

27 The notice further states that "[a] Boeing transition team will be in your facility the first week of December
28 to formulate a transition plan."

41. Boeing's November 21, 1997 notice of partial termination and Boeing's stated intent to withdraw the Apache airframe work from TRA and to place it with Boeing's Vertol facility constitute a breach of the Teaming Agreement.

42. Boeing, through its subsidiary MDHC, is the only manufacturer of the Apache helicopter. TRA's loss of the Apache airframe workshare will result in TRA having substantial idle production capacity for which there is no viable alternative use.

43. Boeing's November 21, 1997 notice of partial termination and its long-term scheme to withdraw all of TRA's workshare on the Apache airframes, if allowed to succeed, will cause TRA to begin to lose work on the Apache airframes as early as mid-1998, which losses will continue and incrementally increase through the second half of calendar year 1998, culminating in the complete loss of the Apache work by the beginning of calendar year 1999.

44. Defendants failure to comply with the Teaming Agreement will cause irreparable injury to TRA's operations, including, without limitation, lost revenue, employee dislocation, an underutilized facility, and inability to restart work on Apache airframes once stopped. TRA's loss of the Apache airframe work threatens TRA's existence as a viable operating division of Teledyne.

45. These injuries cannot be adequately compensated by monetary damages alone.

COUNT I

(Breach of Contract)

46. Teledyne incorporates by reference the allegations of the preceding paragraphs as if set forth in full herein.

47. Defendants' above-described conduct constitutes a breach of the Teaming Agreement.

48. All conditions precedent to TRA's performance under the Teaming Agreement have been satisfied, or have been waived or excused by MDHC, and TRA is and continues to be ready, willing and able to continue its performance under the Teaming Agreement..

49. Defendant MDHC breached the Teaming Agreement by refusing to purchase its requirements for the airframes for future AH-64 helicopters from Teledyne, and announcing its intention to produce the airframes itself or through its corporate parent, defendant Boeing.

50. Alternatively, defendant MDHC's refusal to purchase the airframes for the AH-64 helicopters from TRA, and its associated announcement of its intention to produce the components itself or through its corporate parent, constituted an anticipatory breach of the Teaming Agreement.

51. Teledyne is entitled to permanent injunctive relief against Boeing and MDHC. Alternatively, Teledyne is entitled to damages, including, but not limited to, its lost profits on the Apache program, lost profits on all other work for which it cannot compete effectively because of its loss of the Apache work, full compensation for all of TRA's investment in the tooling it developed to manufacture the Apache airframe, and overhead expenses. Teledyne's damages exceed \$100 million, exclusive of interests and costs.

COUNT II

(Breach Of The Implied Covenant Of Good Faith And Fair Dealing)

52. Teledyne incorporates by reference the allegations of the preceding paragraphs as though fully set forth herein.

53. TRA and defendant MDHC (through its predecessor Hughes) entered into the Teaming Agreement on April 3, 1973, as subsequently confirmed as set forth more fully above.

54. TRA has, at all times, dealt fairly and in good faith with MDHC in respect of its obligations under said contract.

55. By virtue of the joint efforts of the parties to develop, produce, and sell the AH-64 helicopters, and by virtue of the prime contractor-subcontractor relationship, TRA necessarily reposed great trust and confidence in MDHC, and as a result a fiduciary, quasi-fiduciary, or special relationship exists between Teledyne and defendants.

56. Defendant MDHC, in bad faith and without probable cause, has breached the covenant of good faith and fair dealing implied under the Teaming Agreement by denying the existence of its contractual obligations under said contract.

57. As a result of this breach of the implied covenant of good faith and fair dealing, Teledyne has suffered monetary damages in excess of \$100 million.

58. Defendant engaged in the above conduct with oppression, fraud, or malice, and Teledyne is therefore entitled to an award of punitive damages.

COUNT III

(Tortious Interference With Contractual Relations By Defendant Boeing)

59. Teledyne incorporates by reference the allegations of the preceding paragraphs as though fully set forth herein.

60. Teledyne and defendant MDHC (through its predecessor Hughes) entered into the Teaming Agreement on April 3, 1973, as subsequently confirmed as more fully set forth above.

61. TRA has, at all times, performed its obligations under the Teaming Agreement.

62. Defendant Boeing, prior to obtaining any ownership interest in MDHC or its affiliated corporators, knew of the existence of the Teaming Agreement, and knew that MDHC was obligated to purchase Apache airframes from TRA pursuant to that agreement. In spite of this knowledge, and with malicious intent to induce MDHC to breach the Teaming Agreement, defendant Boeing induced MDHC to breach the Teaming Agreement without just cause and to deny to Teledyne its rights and interests thereunder.

63. As a result of such inducement by defendant Boeing, defendant MDHC breached the Teaming Agreement, thereby causing Teledyne to suffer monetary damages in excess of \$100 million.

64. Defendants engaged in the above conduct with oppression, fraud, or malice, and Teledyne is therefore entitled to an award of punitive damages.

RELIEF REQUESTED

65. Teledyne requests that defendants, their directors, officers, agents, successors, and assigns and all other acting on its behalf, be permanently enjoined, as a result of their wrongful activities, from:

(a) engaging in any further attempts to withdraw the airframe work for the Apache helicopter program from TRA and any further attempts to obtain that work for themselves, any affiliated entity, or any third party; and

(b) failing to deal in good faith with TRA with respect to all future airframe work for the Apache helicopter program and failing to negotiate in good faith and enter into subcontracts with TRA for all such future work for which defendants have received or will receive a prime contract from any customer.

1 66. Teledyne requests that MDHC be ordered to specifically perform all of its obligations under
2 the Teaming Agreement, including without limitation that defendants be ordered to:

- 3 (a) cease any attempt to remove the Apache airframe tooling from any TRA facility
4 and relocating it to any facility owned or used by Boeing or any other person or
5 entity;
- 6 (b) make no further attempts to withdraw the airframe work for the Apache helicopter
7 program from TRA and make no further attempts to obtain that work for
8 themselves, any affiliated entity, or any third party; and
- 9 (c) deal in good faith with TRA with respect to all future airframe work for the
10 Apache helicopter program and negotiate in good faith and enter into subcontracts
11 with TRA for all such future work for which defendants have received or will
12 receive a prime contract from any customer.

13 67. Teledyne requests that defendants be ordered to pay Teledyne all damages sustained by it,
14 together with reasonable attorneys' fees and costs of this action, and enter judgment against defendants for
15 that amount.

16 68. Teledyne requests that the Court grant such other relief as it shall deem just and appropriate.

17
18 **JURY DEMAND**

19 Teledyne demands trial by jury on all issues of fact herein.

20 Dated: December 5, 1997

LATHAM & WATKINS

21
22
23 By 

Katherine A. Lauer

24 Attorneys for Plaintiff
25 Teledyne Industries, Inc.
26
27
28

United States District Court

SOUTHERN

DISTRICT OF

CALIFORNIA

TELEDYNE INDUSTRIES, INC.,
a California corporation

V.

THE BOEING COMPANY, a Delaware
corporation; and McDONNELL DOUGLAS
HELICOPTER COMPANY, a Delaware
corporation

SUMMONS IN A CIVIL ACTION

CASE NUMBER 97 CV 2185H (LSP)

TO: (Name and Address of Defendant)

The Boeing Company
7755 East Marginal Way South
Seattle, Washington

McDonnell Douglas Helicopter Company
5000 East McDowell Road
Mesa, Arizona 85215-9797

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

Peter H. Benzian, Esq.
Katherine A. Lauer, Esq.
LATHAM & WATKINS
701 "B" Street, Suite 2100
San Diego, CA 92101

Thomas L. Patten, Esq.
LATHAM & WATKINS
1001 Pennsylvania Ave., N.W.
Suite 1300
Washington, D.C. 20005-2505

an answer to the complaint which is herewith served upon you, within TWENTY (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

ROBERTA WESTDAL

CLERK

R. F. MESSIG

DATE

12-5-97

JS 44
(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. The form is provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

TELEDYNE INDUSTRIES, INC.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

THE BOENG COMPANY, McDONNELL DOUGLAS
HELICOPTER COMPANY CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Seattle, WA
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Katherine A. Lauer (619) 236-1234
Latham & Watkins
701 "B" Street, Suite 2100
San Diego, CA 92101

ATTORNEYS (IF KNOWN)

97CV2185H (LSP)

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input checked="" type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE PLING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY

28 U.S.C. Section 1332

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Motor Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure or Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Legislation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 151 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 OWBC/DWVW (405(g)) <input type="checkbox"/> 864 SSDI Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 881 Agricultural Acts <input type="checkbox"/> 882 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 560 Other			

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

Transferred from

Appeal to District

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23DEMAND \$
\$100 million

Check YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NOVIII. RELATED CASE(S) (See instructions):
IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT